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SERVICE DATE – MARCH 12, 2003

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB-12 (Sub-No. 184X)

SOUTHERN PACIFIC TRANSPORTATION COMPANY–ABANDONMENT  
EXEMPTION–WENDEL-ALTURAS LINE IN MODOC AND LASSEN  
COUNTIES, CA

Decided: March 10, 2003

Southern Pacific Transportation Company (SPT) filed a petition for exemption under 49 U.S.C. 10505 [now 49 U.S.C. 10502] from the prior approval requirements of 49 U.S.C. 10903-04 to abandon an 85.5-mile rail line between milepost 360.1, near Wendel and milepost 445.6, near Alturas, in Modoc and Lassen Counties, CA. A decision and notice of interim trail or abandonment (NITU) was served and published in the Federal Register on August 12, 1996 (61 FR 41823-30), authorizing, among other things, a 180-day period for SPT to negotiate an interim trail use/rail banking agreement with various parties and governmental agencies for the 85.5-mile line of railroad.<sup>1</sup> The negotiating period under the NITU was extended several times; the latest extension was scheduled to expire on March 7, 2003.<sup>2</sup>

On March 5, 2003, U.S. Department of the Interior, Bureau of Land Management (BLM), filed a request to extend the negotiation period under the NITU for 1 year. BLM states that the additional time is needed to negotiate with UP regarding the value of the lands to be rail banked and for BLM to secure funding to carry out rail banking arrangements negotiated with UP. On March 7, 2003, UP advised the Board that it has not consummated the abandonment and that is agreeable to an additional trail use negotiation period of 180 days for BLM or other entities to conduct trail use negotiations.

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<sup>1</sup> This proceeding is related to Finance Docket No. 32760, Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company–Control and Merger–Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company (UP/SP). The common control authorized in UP/SP (see Union Pacific/Southern Pacific Merger, 1 S.T.B. 233 (1996)), was consummated on September 11, 1996. SPT was subsequently merged into Union Pacific Railroad Company (UP).

<sup>2</sup> The most recent extension of the negotiation period under the NITU was authorized by decision served March 7, 2002.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the circumstances, further extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). On the basis of the extension request and UP's response, the NITU negotiating period will be extended for an additional 180 days from March 7, 2003 (until September 3, 2003).

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. BLM's request to extend the NITU negotiating period is granted as indicated in this decision.
2. The NITU negotiating period is extended until September 3, 2003.
3. The decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary